

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA, ) CASE NO. MJ 08-121  
)  
Plaintiff, )  
)  
v. ) DETENTION ORDER  
)  
ANDRES LEIVA DIAZ, )  
)  
Defendant. )  
\_\_\_\_\_ )

Offense charged: Possession of Cocaine Base with Intent to Distribute; Felon in Possession  
of a Firearm

Date of Detention Hearing: March 19, 2008

The Court, having conducted a detention hearing pursuant to 18 U.S.C. § 3142(f), and  
based upon the factual findings and statement of reasons for detention hereafter set forth, finds  
that no condition or combination of conditions which defendant can meet will reasonably assure  
the appearance of defendant as required and the safety of other persons and the community.

FINDINGS OF FACT AND STATEMENT OF REASONS FOR DETENTION

1. Defendant has been charged with a drug offense the maximum penalty of which

01 is in excess of ten years. There is therefore a rebuttable presumption against defendant as to both  
02 dangerousness and flight risk, under 18 U.S.C. §3142(e).

03         2.       The AUSA proffers information alleging that defendant was recorded making a  
04 telephone call from the King County Detention facility, following his arrest on the instant charges,  
05 in which he appeared to discuss retaliation against an individual whom he believed to be a  
06 confidential informant in this case. During a search of an apartment bedroom in which the  
07 defendant is alleged to have been staying, a loaded handgun with hollow point bullets was found.

08         3.       Some of the information provided about the defendant's current residence is  
09 conflicting. He has been unemployed for the last three years and does not have a stable  
10 employment history prior to that time. He recently completed a term of confinement with work  
11 release and 12 months of community custody a few months prior to his arrest on the instant  
12 charges.

13         4.       Taken as a whole, the record does not effectively rebut the presumption that no  
14 condition or combination of conditions will reasonably assure the appearance of the defendant as  
15 required and the safety of the community.

16 It is therefore ORDERED:

17         (1)       Defendant shall be detained pending trial and committed to the custody of the  
18                   Attorney General for confinement in a correction facility separate, to the extent  
19                   practicable, from persons awaiting or serving sentences or being held in custody  
20                   pending appeal;

21         (2)       Defendant shall be afforded reasonable opportunity for private consultation with  
22                   counsel;

01 (3) On order of a court of the United States or on request of an attorney for the  
02 Government, the person in charge of the corrections facility in which defendant is  
03 confined shall deliver the defendant to a United States Marshal for the purpose of  
04 an appearance in connection with a court proceeding; and

05 (4) The clerk shall direct copies of this Order to counsel for the United States, to  
06 counsel for the defendant, to the United States Marshal, and to the United States  
07 Pretrial Services Officer.

08 DATED this 20th day of March, 2008.

09   
10 Mary Alice Theiler  
11 United States Magistrate Judge  
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